IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

WA.No. 1237 of 2004

AGAINST THE JUDGEMENT IN OP.7744/2003 Dated 07/04/2003

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APPELLANT/PETITIONER:

M/S. AJITHA METAL TRADERS,
METHAR BAZAR, ERNAKULAM, REP. BY ITS PROPRIETOR,
MR.K.K.SUNIL KUMAR.

BY ADV. SRI.S.ANANTHAKRISHNAN

RESPONDENTS/RESPONDENTS:
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1. THE ADDL.SALES TAX OFFICER-I,
2ND CIRCLE, ERNAKULAM.

2. THE COMMISSIONER OF COMMERCIAL TAXES,
COMMERCIAL TAXES, TRIVANDRUM.

BY SR.GOVERNMENT PLEADER MR.MOHAMMED RAFIQ

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 13/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A.No.1237 of 2004

Dated, this the 13th day of July, 2007

JUDGMENT

H.L.Dattu, C.J.

This appeal arises out of an order passed by the learned Single Judge in O.P.No.7744 of 2003 dated 7th April, 2003.

2. In the writ petition, the petitioner had primarily questioned the constitutional validity or otherwise of Section 17(5A) of the Kerala General Sales Tax Act (Act for short) as unconstitutional. Incidentally, the petitioner has also questioned the show cause notice issued by the revisional authority to revise the order passed by the Deputy Commissioner of Commercial Taxes for the assessment years 1995-96, 1996-97 and 1997-98.

3. The learned Judge of this Court has upheld the constitutional validity of Section 17(5A) of the Act.

4. Now what remains to be done necessarily by the assessee is to file a proper objection to the show cause notice issued by the Commissoner of Commercial Taxes dated 7.2.2003. If such an objection is filed it is for the revisional authority to consider the same and pass appropriate orders.

5. In that view of the matter without going into the other details of the case, this writ appeal is disposed of.

6. The appellant is granted one month's time from today to file its objections to the show cause issued by the Commissioner of Commercial Taxes dated 7.2.2003 for the assessment years 1995-96, 1996-97 and 1997-

98. If such objections are filed within the time granted by this Court, the Commissioner of Commercial Taxes will decide the same in accordance with law after due application of his mind alone.

Consequently, I.A.No.505 of 2006 is also dismissed.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns